IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9835 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

INAYAT SULEMAN ISMAIL PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9835 of 2002

MR NK MAJMUDAR for Petitioner No. 1

MS SHAH, AGP for Respondent No. 1

MS SEJAL K MANDAVIA for Respondent No. 2-3

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 22/01/2003

ORAL JUDGEMENT

Rule. Ms. Shah the learned Assistant Government Pleader waives service of rule. Ms.Sejal Mandavia

appears for respondents No. 2 and 3 waives notice of the Rule. With the consent of the parties the matter is taken up for final hearing.

The short facts of the case are that the father of the petitioner was serving in Bharuch District Panchayat as Tracer. He expired on 13-2-1980. The petitioner applied for compassionate appointment. The authority considered the matter and found that the income of the family of the petitioner or father of the deceased employee is exceeding Rs. 2,500/- and the petitioner was denied consideration for compassionate appointment. The perusal of the letter dated 17-4-1999 shows that out of the family income assessed by the department the amount of family pension is Rs.1,400/- per month and the contention of the petitioner is that if the aforesaid income of family pension is excluded from the total income of the family the income of the family of the deceased would go below Rs.2,500/- per month and the petitioner would be entitled to the benefits for consideration for compassionate appointment.

In my view, the contentions raised in this petition are covered by the various judgements of coordinate Bench of this Court and of this Court in Special Civil Application No.5618 of 2002 and therefore, no elaborate discussion is required. It has been held that in other matters that for the purpose of counting limit for eligibility criteria for compassionate appointment, the income of the family pension is required to be excluded and similar view is required to be taken in the present case.

In view of the above, the decision of the respondent authority of denying the petitioner for consideration for compassionate appointment on the ground that the income of the family exceeds Rs.2,500/- deserves to be quashed and set aside and the respondents are directed to consider the case of the petitioner for compassionate appointment in accordance with law by treating the income of the family of the petitioner below Rs.2,500/- and the decision shall be taken as early as possible preferably within a period of three months from the date of receipt of the order of this Court.

Petition is allowed to the aforesaid extent. Rule is made absolute accordingly. No costs. Direct service is permitted.

(Jayant Patel, J.)

/malek